

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

FRANCIS FERRI,

Petitioner

v.

THOMAS W. CORBETT,

Respondent

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CIVIL NO. 4:CV-07-896

(Judge McClure)

**MEMORANDUM**

August 23, 2007

**Background**

Francis Ferri, an inmate presently confined at the State Correctional Institution, Camp Hill, Pennsylvania (SCI-Camp Hill), and five (5) other state prisoners filed a joint *pro se* petition for a writ of habeas corpus under 28 U.S.C. § 2254 in the United States District Court for the Eastern District of Pennsylvania. Named as sole Respondent is Thomas Corbett, Jr., Attorney General of the Commonwealth of Pennsylvania.

By Order dated April 13, 2007, the Eastern District divided the matter into six (6) separate petitions for writ of habeas corpus and transferred Ferri's petition

to this Court. The petition was received in this Court on May 17, 2007.

**Discussion**

On June 6, 2007, the six (6) original Petitioners, including Ferri filed a “Motion to Withdraw the Complaint Without Prejudice.” Record document no. 4. Ferri indicates that he wishes to withdraw his petition because he is procedurally barred from filing a successive § 2254 petition with this Court. See id. at ¶ 3. Petitioner adds that since he lacks standing to seek § 2254 relief from this Court, he wishes to voluntarily dismiss this action without prejudice.

Based upon an application of the standards set forth in United States v. Miller, 197 F.3d 644 (3d Cir. 1999) and Mason v. Meyers, 208 F.3d 414 (3d Cir. 2000)<sup>1</sup> to Ferri’s announced intention that he does not wish to proceed with his present petition, this Court is precluded from further review. Since the Petitioner has voiced his intention to withdraw his instant petition, his request will be granted. An appropriate Order will enter.

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s/ James F. McClure, Jr.  
JAMES F. McCLURE, JR.  
United States District Judge

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<sup>1</sup> Miller and Mason sought to prevent *pro se* litigants from unintentionally defaulting federal claims through failure to assert them in a single petition by allowing them to voluntarily withdraw their action.

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**ORDER**

August 23, 2007

In accordance with the accompanying Memorandum, **IT IS HEREBY**

**ORDERED THAT:**

1. Petitioner's request to withdraw his petition for writ of habeas corpus (Record document no. 4) is granted.
2. The petition for writ of habeas corpus is dismissed, without prejudice.
3. The Clerk of Court is directed to close this case.
4. There is no basis for the issuance of a Certificate of Appealability.

s/ James F. McClure, Jr.  
JAMES F. McCLURE, JR.  
United States District Judge